

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TONY L. ALEXANDER,

Defendant-Appellant.

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UNPUBLISHED

February 9, 2006

No. 256935

Wayne Circuit Court

LC No. 00-012628-01

Before: Meter, P.J., Whitbeck, C.J., and Schuette, J.

PER CURIAM.

Defendant appeals by delayed leave granted from a prison sentence of one to twenty years imposed on a plea-based conviction of possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv). We affirm.

**I. FACTS**

Defendant was charged with the above offense for an incident that occurred on November 2, 2000. On November 22, 2000, he pleaded guilty in exchange for the dismissal of the habitual offender notice of sentence enhancement. According to the lower court file, the trial court issued a capias for defendant's arrest on December 18, 2000, after he failed to appear for sentencing. According to the presentence report and defendant's statements at sentencing, defendant committed the instant offense while on parole. As a result, parole was revoked and defendant was returned to prison on November 27, 2000, and thus was unable to appear for his original sentencing date in December 2000. Defendant was paroled again on October 17, 2003 and appeared for sentencing on November 4, 2003. The trial court stated that it was going to close out defendant's probation and imposed a sentence of one to twenty years.<sup>1</sup>

Defendant's delayed application for leave to appeal was granted on November 9, 2004. He contends that the trial court lost jurisdiction to sentence him because it delayed sentencing for more than one year without good cause.

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<sup>1</sup> According to the Michigan Department of Corrections Offender Tracking System, although defendant's earliest release date was November 3, 2004, he is currently still incarcerated, with a maximum discharge date of August 15, 2031.

## II. STANDARD OF REVIEW

Defendant failed to preserve this issue by raising it below. Therefore, review is limited to plain error affecting defendant's substantial rights. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999). However, "jurisdictional defects [may] be raised at any time." *People v Boynton*, 185 Mich App 669, 670; 463 NW2d 174 (1990).

## III. ANALYSIS

If a sentence of probation is authorized for a particular offense, the court may delay sentencing the defendant for up to one year "to give the defendant an opportunity to prove to the court his or her eligibility for probation or other leniency . . . ." MCL 771.1(2). If a court that has ordered delayed sentencing does not impose a sentence within the one-year period, it loses jurisdiction to sentence defendant "unless good cause is shown for the delay." *Boynton, supra* at 671. Only "the most limited and unusual circumstances" will justify a delay beyond the one-year period. *People v Dubis*, 158 Mich App 504, 506; 405 NW2d 181 (1987).

Defendant was not placed on a delayed sentence pursuant to MCL 771.1(2). While the trial court gave a preliminary evaluation of a sentence of lifetime probation at the plea proceeding, defendant failed to appear for sentencing and the trial court issued a warrant for his arrest. Defendant had been incarcerated for violation of parole, and was not brought before the trial court until he was paroled again nearly three years later. Under the circumstances, the trial court did not lose its jurisdiction to sentence defendant. *People v Garvin*, 159 Mich App 38, 45-47; 406 NW2d 469 (1987); *People v McIntosh*, 103 Mich App 11, 20-21; 302 NW2d 321 (1981).

Affirmed.

/s/ Patrick M. Meter  
/s/ William C. Whitbeck  
/s/ Bill Schuette